



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

May 4, 1950

Hon. James H. Moore  
County Attorney  
Angelina County  
Lufkin, Texas

Opinion No. V-1051.

Re: The validity of a  
teacher's contract  
executed by a Board  
of School Trustees  
in the absence of  
three new trustees  
elected three days  
prior to the con-  
tract date.

Dear Sir:

We quote from your inquiry as follows:

"On April 1st, 1950, one of the Rural High School Districts in this County held a trustee election at which three new trustees were elected. On April 4th, 1950, five of the members of the Board of Trustees met and employed the teachers for the ensuing year. None of the newly elected trustees were present or signed the contract.

"Our question is this: Is the contract as made by the old Board of Trustees with the teachers a valid and binding contract notwithstanding the provision in the last sentence in Article 2750a-1, . . ."

Article 2750a-1, V.C.S., provides:

"The trustees of any Common School District or Consolidated Common School District shall have authority to make contracts for a period of time not in excess of two (2) years with principals, superintendents and teachers of said Common School Districts or Consolidated Common School Districts, provided that such contracts shall be approved by the County Superintendent. No contract may be signed by the Trustees of Common School Districts or Common Consolidated School Districts until the newly elected trustee or trustees

have qualified and taken the oath of office." (Emphasis added)

Section 4 of Article 2774a, V.C.S., provides in part:

"The control and management of the schools of a rural high school district . . . shall be vested in a board of seven trustees . . . who shall be elected and serve in accordance with the provisions of the general law (Section 1, Article 2745) relative to common school districts except as may be otherwise provided herein; . . ."  
(Matter in parenthesis added.)

By virtue of your reference to Article 2750a-1, we assume the district in question is classified as common under Article 2922b, and that the newly elected trustees had not qualified or taken the oath of office when the purported contracts in question were made.

Attorney General Opinion O-765, dated July 1, 1939, held that a provision of Article 2750a similar to the one underscored above was unconstitutional because of the defective caption of the Act. In Opinion O-4595, dated May 26, 1942, it was pointed out that the Legislature, apparently to remedy this defect, enacted in 1941 the law codified as Article 2750a-1 in Vernon's Civil Statutes. That opinion further states that the language used in Article 2750a-1 very plainly indicates that the feature sought to be remedied was the practice whereby defeated school trustees would join in executing teacher contracts before the "newly elected" trustee or trustees could qualify.

In opinions O-4595 and O-3064, the latter dated July 21, 1941, it was held that Article 2750a-1 had no application to the fact situations considered therein, for the reason that the contracts there in question were signed at a time prior to the regular election for new trustees in April.

Under the facts presented herein three new trustees were elected on April 1, 1950. On April 4, 1950, five members of the old board met and contracted for teachers. This was done after the trustee election of April 1 and prior to the qualification of the newly elected trustees.

Hon. James H. Moore, page 3 (V-1051)

We are in agreement with your opinion that such contracts are invalid by virtue of the provision of Article 2750a-1, above underscored. Under that law, the trustees in question had no authority to execute or sign teacher contracts between election day (April 1, 1950) and the qualification of the newly elected trustees.

SUBJECT

Under facts submitted, and under Article 2750a-1, V.C.S., the old board of trustees of a rural high school district had no authority to execute or sign teachers' contracts during the time between the election of the district's new trustees and their qualification. Arts. 2745; 2774a, Sec. 4; 2922b, V.C.S.

Yours very truly,

PRICE DANIEL  
Attorney General

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

Joe Greenhill  
First Assistant

CEO:hh:mv

*Chester E. Ollison*  
By  
Chester E. Ollison  
Assistant